

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

JOSEPH VISCOMI, FIRST DESTINY
REAL ESTATE, INC.,

Plaintiffs,

-v.-

5:08-CV-00327(NPM/ATB)

EXCELSIOR INSURANCE COMPANY,
Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

DeFrancisco Law Firm
121 East Water Street
Syracuse, NY 13202

Charles L. Falgiatano, Esq.

FOR THE DEFENDANT:

Mura, Storm Law Firm
14 Lafayette Square
930 Rand Building
Buffalo, NY 14203

Roy A. Mura, Esq.

NEIL P. MCCURN,
SENIOR U.S. DISTRICT JUDGE

JUDGMENT DISMISSING ACTION
BASED UPON SETTLEMENT

The parties have entered into an agreement in settlement of all claims in
this action, and that they reasonably anticipate finalizing their agreement shortly,

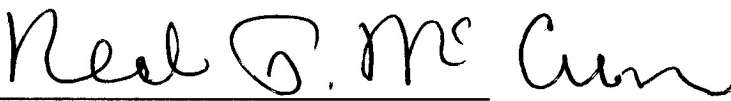
following which this action will be discontinued, with prejudice, by stipulation pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure. Based upon this development, I find that it is not necessary for this action to remain on the court's active docket.

It is therefore hereby

ORDERED, as follows:

- 1) This action is dismissed, with prejudice, except as set forth below.
- 2) The court will retain complete jurisdiction to vacate this order and to reopen the action within six months from the date of this order upon cause shown that the settlement has not been completed and further litigation is necessary.
- 3) The Clerk shall forthwith serve copies of this judgment upon the parties and/or their attorneys appearing in this action by electronic means.

Dated: January 7, 2009
Syracuse, New York



Neal P. McCurn
Senior U.S. District Judge